

## § 96.42

its subrecipients/subcontractors for the purpose of making surveys, audits, examinations, excerpts, and transcripts.

### § 96.42 Audit standards.

Surveys, audits, and examinations will conform to the Government auditing standards, issued by the Comptroller General of the United States, and guides issued by the Secretary. For purposes of meeting audit requirements under subparts A and C, only the standards for financial and compliance audits need apply.

### § 96.43 Relation of organization-wide audits to other audit requirements.

To the extent that audits conducted in accordance with subpart A provide DOL officials with the information needed to carry out their responsibilities under Federal law or DOL regulations, the Secretary shall rely upon and use the information. Additional audit efforts are not precluded, but such efforts must build upon the organization-wide audit and not duplicate it. The provisions of subpart A do not authorize a covered entity, after having complied with those requirements, to constrain, in any manner, the Secretary from carrying out additional surveys, audits, or examinations as deemed necessary.

## Subpart E—Audit Resolution

### § 96.51 Purpose and scope of subpart.

This subpart prescribes standards for resolution of audit findings, including, but not limited to, questioned costs and administrative deficiencies, identified as a result of the audit of grant agreements, contracts, and other agreements awarded by or on behalf of DOL. In cases where these standards conflict with statutes or other DOL regulations, the latter shall be controlling. The DOL Office of Inspector General (OIG) is available to assist agencies in the audit resolution process.

### § 96.52 Pre-resolution phase activities.

(a) *Submission of reports.* Recipients and subrecipients of DOL funds that are audited in accordance with the requirements of subpart A shall comply in all respects with the report submission requirements of 29 CFR part 99.

## 29 CFR Subtitle A (7–1–09 Edition)

Failure to submit a complete audit package will result in the return of the submitted package by the Clearinghouse, which will assign a delinquency classification until the completed package is submitted.

(b) *Quality control.* The Office of Inspector General, in conjunction with other Federal agencies, will implement an audit quality program which may include random, planned, or directed reviews of audits submitted in compliance with OMB Circular A–133. When audits are found not to be performed in compliance with the requirements, the OIG may share the findings with the auditor, the auditee, and the funding agencies, and may work with the local licensing authorities to achieve corrective action.

### § 96.53 Audit resolution generally.

The DOL official(s) responsible for audit resolution shall promptly evaluate findings and recommendations reported by auditors and the corrective action plan developed by the recipient to determine proper actions in response to audit findings and recommendations. The process of audit resolution includes at a minimum an initial determination, an informal resolution period, and a final determination.

(a) *Initial determination.* After the conclusion of any comment period for audits provided the recipient/contractor, the responsible DOL official(s) shall make an initial determination on the allowability of questioned costs or activities, administrative or systemic findings, and the corrective actions outlined by the recipient. Such determination shall be based on applicable statutes, regulations, administrative directives, or terms and conditions of the grant/contract award instrument.

(b) *Informal resolution.* The recipient/contractor shall have a reasonable period of time (as determined by the DOL official(s) responsible for audit resolution) from the date of issuance of the initial determination to informally resolve those matters in which the recipient/contractor disagrees with the decisions of the responsible DOL official(s).

(c) *Final determination.* After the conclusion of the informal resolution period, the responsible DOL official(s) shall issue a final determination that:

(1) As appropriate, indicate that efforts to informally resolve matters contained in the initial determination have either been successful or unsuccessful;

(2) Lists those matters upon which the parties continue to disagree;

(3) Lists any modifications to the factual findings and conclusions set forth in the initial determination;

(4) Lists any sanctions and required corrective actions; and

(5) Sets forth any appeal rights.

(d) *Time limit.* Insofar as possible, the requirements of this section should be met within 180 days of the date the final approved audit report is received by the DOL official(s) responsible for audit resolution.

#### § 96.54 Responsibility for subrecipient audits.

Recipients of Federal assistance from DOL are responsible for ensuring that subrecipient organizations who expend \$300,000 or more in a fiscal year or \$500,000 for fiscal years ending after December 31, 2003 are audited and that any audit findings are resolved in accordance with this part. The recipient shall:

(a) Determine whether appropriate audit requirements outlined in subpart A have been met;

(b) Determine whether the subrecipient spent Federal assistance funds provided in accordance with applicable laws and regulations;

(c) Ensure that appropriate corrective action is taken within six months after receipt of the audit report in instances of non-compliance with Federal law and regulations;

(d) Consider whether subrecipient audits necessitate adjustment of the recipient's own records; and

(e) Require that each subrecipient permit independent auditors to have access to the records and financial statements necessary to comply with this part.

[64 FR 14539, Mar. 25, 1999, as amended at 72 FR 37104, July 9, 2007]

## Subpart F—Appeals

### § 96.61 Purpose and scope of subpart.

(a) The purpose of this subpart is to set forth procedures by which recipients and contractors may appeal final determinations by the DOL officials responsible for audit resolution as a result of audits.

(b) Subrecipients and subcontractors shall have only such appeal rights as may exist in subgrants or subcontracts with the respective recipients or contractors.

### § 96.62 Contracts.

(a) For the purpose of this subpart, the term “contract” includes all agreements described in sec. 602(a) of the Contract Disputes Act (Applicability of Law—Executive agency contracts) (41 U.S.C. 602(a)).

(b) Upon a contractor's receipt of the DOL contracting officer's final determination as a result of an audit, the contractor may appeal the final determination to the DOL Board of Contract Appeals, pursuant to 41 CFR part 29-60 and 48 CFR part 2933 or pursue such other remedies as may be available under the Contract Disputes Act.

### § 96.63 Federal financial assistance.

The DOL grantor agencies shall determine which of the two appeal options set forth in paragraphs (a) and (b) of this section the recipient may use to appeal the final determination of the grant officer. All awards within the same Federal financial assistance program shall follow the same appeal procedure.

(a) Appeal to the head of the grantor agency, or his/her designee, for which the audit was conducted.

(1) *Jurisdiction.* (i) *Request for hearing.* Within 21 days of receipt of the grant officer's final determination, the recipient may transmit, by certified mail, return receipt requested, a request for hearing to the head of the grantor agency, or his/her designee, as noted in the final determination. A copy must also be sent to the grant officer who signed the final determination.

(ii) *Statement of issues.* The request for a hearing shall be accompanied by a copy of the final determination, if